IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 5631 of 1998

For Approval and Signature:

HONOURABLE MR.JUSTICE AKIL KURESHI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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VASANTLAL CHHOTALAL VACHHIYAT - Petitioner(s)
Versus
GUJARAT ELECTRICITY BOARD & 1 - Respondent(s)

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Appearance :

MR DHIRENDRA MEHTA for Petitioner(s) : 1,
NOTICE SERVED for Respondent(s) : 1,
MS RV ACHARYA for Respondent(s) : 2,

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CORAM : HONOURABLE MR.JUSTICE AKIL KURESHI

Date : 03/08/2007

ORAL JUDGMENT

In the present petition, the petitioner, a consumer of electricity has challenged the recovery of electricity charges to the tune of Rs.2,77,250/-

as modified by the appellate committee by an order dated 23rd January 1998.

2. The petitioner was granted electric connection by GEB for industrial purpose. A meter was installed on 2.12.95. On the complaint of the petitioner that the meter has got burnt,the officers of the GEB removed the meter and sealed the same and sent it for laboratory testing. The laboratory report suggested that there was some tampering with the vital parts of the meter. On this premise, treating it as a theft case, initially a bill for Rs.2,77,250/- was raised. After paying up the bill, the petitioner appealed against the same before the Appellate Committee. The Appellate Committee though upheld the stand of GEB that there was power theft, reduced the bill amount by giving relief to the petitioner for certain number of holidays and days of staggering. Eventually, revised reduced bill of Rs.1,03060/- was drawn and the excess amount was refunded to the petitioner. The petitioner has challenged the said recovery.

3. Before the Appellate Committee as well as before this Court,it was contended on behalf of the petitioner that it was not a case of theft, but a plain case of meter getting burnt on account of some internal electrical fault. It was contended that the laboratory test report also does not conclusively suggest that there was tampering with the meter. Learned advocate Shri Mehta submitted

that the respondents, therefore, cannot collect any charges from the petitioner for alleged unpaid electricity duty especially treating the case as a theft case.

4. On the other hand, learned advocate Ms.Rohini Acharya appearing for the GEB opposed the petition and submitted that these are disputed questions of fact. The expert body has held that there was tampering with the mater. The Appellate Committee which also comprised of experts has discussed the evidence on record and found that the petitioner had tampered the meter.

5. Having heard the learned advocates appearing for the parties, I find that in a writ petition it would not be possible for this Court to overrule the factual findings arrived at by the authorities. The laboratory report clearly suggests that some vital parts of the meter had scratch marks which would indicate tampering. The suggestion of the petitioner that such scratch marks could have been caused by fire though seems attractive, in view of the overwhelming other evidence on record, the same cannot accepted. From the appellate order, it can be seen that in the past also, the petitioner was involved in theft case of electricity. Admittedly, for 57 days prior to the inspection, there was no electric consumption recorded and after installation of a new meter, electricity consumption had increased drastically. All these would suggest that the

laboratory report cannot be discarded.

6. Under the circumstances, I am unable to concur with the suggestion of the petitioner that the authorities committed an error in recovering the amount of revised bill.

7. The petition therefore fails and is rejected. Rule is discharged.

(Akil Kureshi, J.)

(vjn)